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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,937	03/01/2004	Dominic M. Valdez	DMV-5	3229
7590 11/08/2005			EXAMINER	
Dominic M. Valdez 12120 Orgren Avenue Chino, CA 91710			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,937

Applicant(s)

VALDEZ ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 15-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4-13 and 15-22 is/are rejected.
7) ☒ Claim(s) 12 and 21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 13 and 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 2, "any of the first or second holder cap" is ungrammatical.

In claim 13, line 12, "essentially" is indefinite, as the word could mean substantially or necessarily.

In claim 22, two mechanisms cannot be at one opposite side, as recited or they would be on the same side.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levereth in view of Cahn (2,430,707) and Jacobsen (3,842,974). Claims 1-2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sterngart (3,061,136) in view of Cahn and Jacobsen. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (5,878,878) in view of Cahn and Jacobsen. Levereth,

Sterngart and Wu each disclose a display apparatus comprising a partitioned box having a first holder (Figures 5 and 11; 3; 10; respectively) with a first holder cap and a second holder (Figures 5 and 11; 4; 30) and a second holder cap. Cahn discloses employing a partitioned box to hold cards. To employ the box of any one of Levereth, Sterngart and Wu to store cards as disclosed by Cahn would have been obvious to discretely hold plural stacks of contents, as suggested by any one of Levereth, Sterngart and Wu. Jacobsen discloses a card holding display apparatus with the holder cap (14) being transparent for display and the card holder being opaque. To modify the construction of any one of Levereth, Sterngart and Wu employing the transparent cap and opaque holder teaching of Jacobsen would have been obvious in order to allow selective viewing of the contents of the display apparatus.

As to claim 2, Levereth, Sterngart and Wu each disclose the second holder cap having a second latch or locking mechanism.

As to claim 7, to provide the structure of any one of Levereth, Sterngart and Wu from various plastics would have been obvious to make the structure less expensive. Levereth and Sterngart actually disclose plastic in general.

As to claim 8, to size the holder for its intended content is within the level of ordinary skill in the art.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Vihos (2003/0029764). Vihos discloses providing an article display of transparent material, the transparent material being of an

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ultraviolet filtering material to allow viewing of the cards but also preventing light damage to the contained articles by filtering ultraviolet rays (see page 2, section 0021).

To modify the box of the previous combinations employing a transparent material of ultraviolet protective nature would have been obvious in view of the disclosure of Vihos to protect a viewable content from light damage.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Dickinson (6,737,974). Dickinson discloses a holder provided with a means for identification comprising an RF signal transmitter (chip). To include such a device in the holder of the prior art combination would have been obvious in order to provide a tracking means for keeping track of the location of the holder, as suggested by Dickinson.

7. Claims 13, 16-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Levereth, Sterngart and Wu in view of Cahn and Jacobsen. Levereth, Sterngart and Wu each further disclose the holder cap including a latch or locking mechanism (frictional engagement; 16; at 19). The described method would have been an obvious manipulation and use of the structure of Levereth, Sterngart and Wu as modified by Cahn and Jacobsen, as explained above.

As to claim 16, to provide the structure of any one of Levereth, Sterngart and Wu from various plastics would have been obvious to make the structure less expensive. Levereth and Sterngart actually disclose plastic in general.

As to claim 17, to size the holder for its intended content is within the level of ordinary skill in the art.

As to claim 22, Levereth, Sterngart and Wu each disclose latch mechanisms at opposite sides of the card box.

8. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 above, and further in view of Kofoed et al. (3,351,209). Kofoed et al. disclose employing a color coded marking (18) to distinguish a holder from another holder. To employ color coding to distinguish similar holders in a group from one another would have been obvious in view of Kofoed et al. as a common manner of distinguishing different structures in a group.

9. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 8 and 17 above, and further in view of either one of Spaulding (1,693,622) and Baker (2003/0230514). Spaulding and Baker each disclose card holders provided with multiple holder compartments, one holder compartment (above 15; 32) being sized for a single card. To modify the card holder of the prior art combination employing the structure of either one of Spaulding and Baker would have been obvious in order to provide a sample display location of one card, as suggested by either one of Spaulding and Baker.

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10. Claims 10-11 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 9 and 18 above, and further in view of one of Faulstick et al. (4,778,056) and Forestelle (5,911,320). Faulstick et al. and Forestelle each disclose a display apparatus for planar sheets including a riser (28; 22-24) extending from each side and having a rectangular shape to allow grasping of an edge of the contained planar sheet. To modify the card holder of the prior art combination employing the structure of either one of Faulstick et al. and Forestelle would have been obvious in order to space the contained planar sheets from the outside wall of the holder in order to facilitate grasping of an edge of the planar sheets to remove them from the holder.

11. Applicant's arguments with respect to claims 1-2, 4-11, 13, 15-20 and 22 have been considered but are moot in view of the new ground(s) of rejection.

12. Claims 12 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. This action is made non-final in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

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272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
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BPG